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1191HXI

1 A I left there between 12:00 and 12:30.

2 Q So you were there about three and a half
3 hours?

4 A Yeah.

5 Q How long were you in the presence of Mr.
6 Ervin?

7 A I would go check up on him about once every
8 15 to 20 minutes.

9 Q So he basically sat at the bar for three and
10 a half hours?

11 A Yes.

12 Q Do you know how many drinks he consumed?

13 A He didn't have much that night, maybe four
14 or five.

15 Q Who drove to Dover Downs?

16 A I drove.

17 Q What vehicle did you drive?

18 A A '95 Oldsmobile Achieva, my car.

19 Q How do you spell that?

20 A A-C-H-I-E-V-A.

21 Q While you were at Dover Downs, did you run

1 Q Have you ever gone with your father?

2 A Yes.

3 Q Did you go with your father more often or
4 with your uncle more often?

5 A I went with my uncle more often.

6 Q Do you ever go with friends?

7 A I've gone over a couple of times with
8 friends.

9 Q Anyone in particular?

10 A I've been over there with Andy Garrett
11 (phonetic) and his brother David.

12 Q So you left Dover Downs about 12:30?

13 A Yes.

14 Q And what was your plan after that?

15 A To go home.

16 Q So you were going to take your uncle back to
17 Wye Mills?

18 A Yes.

19 Q And what time did you drop your uncle off?

20 A It was probably between 1:30 and quarter to
21 two.

1 what color it was. I just know it was a police car
2 and it said Centreville on the side of it.

3 Q On the doors?

4 A Yes.

5 Q And do you recall, were the taillights
6 flashing -- what was flashing?

7 A Everything was flashing.

8 Q So like the taillights, parking lights, all
9 of those things?

10 A Yes.

11 Q Were there any lights on the roof?

12 A I don't know, that's what I'm saying. I
13 just know the flashing lights, they were either on the
14 roof or they were on the inside of the car. It would
15 be just like if you got pulled over. Everything was
16 flashing that's supposed to be flashing if you saw a
17 cop car when you drove past it on the road.

18 Q And you saw it from the rear?

19 A Yes.

20 Q Where was the police car stopped?

21 A On the side of the road.

1 Q On the right side?

2 A On the right side.

3 Q And is Brown a two-way street?

4 A Yes, it is.

5 Q Where was the police car in relationship to
6 the corner of Little Kidwell and Brown?

7 A It was pretty close to the corner of it. It
8 was about maybe 25 feet in in relation to the corner
9 of Little Kidwell and Brown. It wasn't far in at all.

10 Q And you came around the corner and saw this
11 car. How far did you drive down Brown Street?

12 A Not far. I drove up past far enough because
13 there was a congregation of African-Americans there,
14 too, around the police car. So I drove up far enough
15 so I wouldn't hit anybody.

16 Q So you drove past the police car?

17 A I drove past the police car.

18 Q How far past the police car?

19 A Maybe 50 to 100 feet. It wasn't very --
20 like I said, it was just far enough to get past the
21 people so I wouldn't hit anybody.

1 Q Was the gentleman on the ground in cuffs,
2 was he a black gentleman?

3 A Yes, he was.

4 Q So after you stood aside, what transpired
5 next?

6 A Well --

7 Q When you stood aside where did you stand in
8 relationship to Officer McGeeney and the gentleman on
9 the ground?

10 A I went over by the curb.

11 Q Were they on the curb?

12 A I was in the middle of the officer and the
13 congregation. I was about I'd say 10 or 15 feet away
14 from the officer and about 10 feet away from the
15 congregation of people. I was like in what you'd call
16 a little pocket by myself just standing there.

17 Q Was the officer on your right side or your
18 left side?

19 A He would have been on my left.

20 Q Okay. Was his gun visible to you?

21 A Yes, it was.

1 Q So what transpired next?

2 A I waited and waited and then --

3 Q How long do you think you were waiting?

4 A Probably 15 or 20 minutes.

5 Q So you were standing there for 15 or 20
6 minutes with Officer McGeeney, and the crowd is
7 standing roughly 25 feet away?

8 A Yes.

9 Q And the gentleman was on the ground?

10 A Yes.

11 Q Was there any dialogue going on between you
12 and Officer McGeeney in this 15 or 20 minutes?

13 A No. Like I say, I was off by myself just
14 waiting for him to help me.

15 Q Okay. So then what happened?

16 A I finally got to the point where I didn't
17 think I was going to get any help and I was getting
18 ready to head towards my car to go home, and that's
19 when somebody grabbed me from behind and threw me on
20 the ground.

21 Q Who grabbed you from behind?

1 A I believe it was Officer McGeeney.

2 Q But you're not sure?

3 A I know when I looked around when I was on
4 the ground, he was the one who was on top of me with
5 his knee stuck in my back.

6 Q Did anyone from the sheriff's department
7 arrive?

8 A Yes, they did.

9 Q When did they arrive?

10 A They arrived right before I got thrown to
11 the ground.

12 Q Did you see officers from the sheriff's
13 department? I guess they're called deputies. Did you
14 see any of the deputies?

15 A I didn't see them when I was on the ground.

16 Q Did you see their car arrive at the scene?

17 A I saw the car arrive, yes.

18 Q Were they both in the same car?

19 A Yes.

20 Q And where did they park?

21 A They parked on the -- I guess if they were

1 deputy was he a contractor?

2 A I knew him for at least three or four years
3 myself, so I'm not sure how long he was a contractor
4 before that.

5 Q Were you on a first-name basis with him?

6 A Yes.

7 Q When these two sheriffs (sic) arrived -- I
8 guess they arrived before you said you were taken to
9 the ground?

10 A Yes.

11 Q What did they do when they arrived,-- were
12 their lights flashing in their car?

13 A I honestly can't remember if they were or
14 not.

15 Q So they got out of their car. Did you see
16 them get out of the car?

17 A That's all I saw.

18 Q Where did they go from there?

19 A They started walking over towards Officer
20 McGeeney's vehicle, and that's about the time I was
21 getting ready to leave.

1 Q So they were walking over towards McGeeney.
2 Did Officer McGeeney say anything to those gentlemen?

3 A I can't remember if he did or not.

4 Q Did they say anything to him?

5 A I think they asked if he needed assistance.

6 Q What did he say?

7 A I'm not sure.

8 Q Okay. I want to narrow it down to little
9 steps as to what happened. So after they arrived on
10 the scene they went over to Officer McGeeney, and then
11 at that point you started to walk away?

12 A Yes.

13 Q And then what happened?

14 A That's when I was grabbed from behind and
15 thrown to the ground for no reason whatsoever.

16 Q What happened to the gentleman that was on
17 the ground in the handcuffs?

18 A I think they had already set him off -- he
19 was either in the car or off to the side of the car.

20 Q Whose car was he in?

21 A I'm not positive on that. I can't remember

1 what they did with him -- or what Officer McGeeney did
2 with him, let's put it that way.

3 Q You don't know if he was pit into whose car?

4 A No, I don't.

5 Q Did you ever see another gentleman at the
6 scene? When the sheriffs arrived was there another
7 gentleman?

8 A I never saw anybody else, only the one that
9 was on the ground to begin with.

10 Q Did you know the gentleman that was on the
11 ground?

12 A No, I didn't.

13 Q When you talked to Officer McGeeney was he
14 stressed or anxious?

15 MR. SANDUL: Objection. How would he
16 know? Go ahead.

17 Q I mean what was Officer McGeeney's demeanor
18 like when you went up to him to tell him what
19 happened?

20 A Well, he had somebody on the ground. He
21 didn't seem to be overly stressed. He was just trying

1 Q Officer Greene never said Darrell, calm
2 down?

3 A While I was in the car, that's when he spoke
4 to me and told me to calm down.

5 Q Who was the other officer -- do you recall
6 his name?

7 A His name was Hedding.

8 Q Do you know him at all?

9 A No. That was the first time I'd ever seen
10 him.

11 Q Do you recall if the sheriffs helped Officer
12 McGeeney put the cuffs on you?

13 A I'm not positive. Like I say, at the time I
14 was face down. The only time I was actually able to
15 look around is when I saw Mr. McGeeney or Officer
16 McGeeney on my back. Other than that, my face was
17 face down into the ground.

18 Q Were you doing any kicking?

19 A I was trying to get them to stop putting the
20 handcuffs on me. Like I said, I was yelling and
21 screaming and telling them, and then finally they got

1 the handcuffs on me. Because like I said, when I
2 heard that pop in my back I knew something was major
3 league wrong.

4 Q You said they. Was it Officers Hedding and
5 Greene?

6 MR. SANDUL: I don't think he's sure
7 which two were there at the time. He knows there were
8 other officers there, but he just doesn't have a
9 specific idea what officers.

10 Q We'll represent that the only officers at
11 the scene that night were McGeeney, Greene and
12 Hedding. Okay?

13 A Yes.

14 Q So when someone put the cuffs on you, were
15 you laying on the ground?

16 A Yes, I was.

17 Q Face first?

18 A Face first.

19 Q What was the ground like that you were
20 laying on -- was it a sidewalk?

21 A No. It was up on a hill. It was up from

1 I say it was a little ravine.

2 Q Okay. Where was the grass in relationship
3 to the sidewalk?

4 A Right next to it.

5 Q So was the grass to the right of the
6 sidewalk or to the left?

7 A It was to the right of the sidewalk.

8 Q So it's the road, the sidewalk, and the
9 grass?

10 A Yes.

11 Q So he flung you to the right?

12 A Yes.

13 Q You're face down in grass?

14 A Yes.

15 Q Then what happened?

16 A Then I felt him jump on top of me to try to
17 put the handcuffs on me. And while I was down there
18 telling him about my shoulder and my back, that's when
19 the knee dug in and that's when I felt the pop.
20 That's when I started flailing even more because I not
21 only wanted to save my shoulder, but I knew something

1 was wrong with my back and I was starting to be in a
2 lot of pain at that particular moment.

3 Q So you're laying face down in the grass, and
4 you've got your hands under your body?

5 A Yes.

6 Q And Officer McGeeney is on the back of you.
7 What happened next?

8 A Like I say, I was only able to glance around
9 that one time, and I happened to see him on my back.
10 After I heard that pop, that's when I started really
11 resisting and yelling to tell him to stop because I
12 knew I was in a lot of pain. Like I said, once I
13 heard that pop I knew something was major league
14 wrong.

15 Q Did Officers Greene or Heddinger pull on
16 your arms?

17 A Like I said, I don't know. The only person
18 I actually saw while I was down on the ground was
19 Officer McGeeney. I could not tell you if anything
20 was going on to the left side or not.

21 Q So Officer McGeeney put handcuffs on you?

1 A I'm assuming he put handcuffs on me. He's
2 the one that ended up picking me up off the ground.

3 Q But when you got up off the ground, did you
4 have handcuffs on you?

5 A Yes, I did.

6 Q Were your hands in front of you or behind
7 you?

8 A They were behind me.

9 Q And you believe it was Officer McGeeney who
10 put the handcuffs on you?

11 A Yes, I do.

12 Q And at this point in time when you stood up,
13 he helped you stand up?

14 A He pulled me up.

15 Q Where were Officers Greene and Hedding at
16 this time?

17 A They were off to my left side standing in
18 the road.

19 Q Did they ever put a hand on you, to your
20 knowledge, while you were on the ground or standing
21 up?

1 A No. Not to my knowledge, I don't.

2 Q Where did Officer McGeeney -- what happened
3 after he stood you up?

4 A That's when he proceeded to try to put me in
5 the car, and he ended up hitting my head against the
6 window. While he was trying to push me into the car,
7 he ended up slamming my head against the window.

Q Which window?

9 A The back window, the little four-corner
10 window in cars.

11 Q Was the door open?

12 A The door was open.

13 Q Was it the passenger side or the driver's
14 side?

15 A It would have been the passenger side, the
16 backseat.

17 Q So he opened the door -- the back door of
18 the car?

19 A I think one of the other officers opened the
20 back door up.

21 Q And he was escorting you to the car?

1 A Yes, he was.

2 Q And they put you in -- or you got into the
3 backseat, or they threw you into the backseat?

4 A They threw me into the backseat.

5 Q They did, all three of them?

6 A He, Mr. McGeeney, threw me into the backseat
7 after they had opened the door up for him.

8 Q What did you do when you got into the
9 backseat of the car?

10 A I was still telling them about my shoulder
11 and back, and I started flailing away because the pain
12 was starting to be too unbearable and I wanted out of
13 that car, plus I had never been given a reason why I
14 was in handcuffs to begin with.

15 Q So Officer McGeeney never told you you were
16 under arrest?

17 A No.

18 Q Did Officer Greene ever tell you you were
19 under arrest?

20 A I was never told I was under arrest by
21 anybody that night.

1 Q So Officer Heddinger didn't say anything to
2 you either?

3 A No.

4 Q So you're now in the backseat of the
5 vehicle. Are you kicking?

6 A I'm kicking.

7 Q What are you kicking?

8 A I'm kicking just about everything in sight.
9 I was flailing because I was in so much pain, and I
10 wanted to get out of that car.

11 Q So were you laying on the seat?

12 A I was in the back of the seat like this.

13 (Witness indicating.)

14 Q Were you seated on the seat or laying on the
15 seat?

16 A I think I was seated on the seat.

17 Q What were you kicking?

18 A I think I kicked out -- or kicked at the
19 window of the side of the car.

20 Q The passenger side -- the right side?

21 A The right side.

1 underwear at me.

2 Q Did they give you your other clothes and
3 tell you to get dressed?

4 A No.

5 Q What did they do with your clothes?

6 A They put them in a bag and didn't give them
7 o me until the next morning at 9:30 in the morning.

8 Q Were you in the cell alone?

9 A Yes.

10 Q Was there anyone else -- how many cells were
11 there?

12 A I think there was four or five.

13 Q Was there anyone else in any of the other
14 cells?

15 A I don't know. I'm not positive.

16 Q Do you recall the names of any of the state
17 policemen?

18 A I can't remember any of their names.

19 Q If you saw them, would you recognize them?

20 A I would recognize the one that threw me into
21 the cell.

1 Q Is there any reason why you didn't take
2 legal action against any of the state policemen?

3 A I was advised not to.

4 Q Who advised you?

5 MR. SANDUL: Objection. That's
6 attorney-client privilege. Don't answer that
7 question.

8 Q So it's now the early hours of the morning,
9 and you're in the jail cell at the state police
10 barracks?

11 A Yes.

12 Q And did Officer Hedding see all that
13 transpired with regard to the state policemen?

14 A Oh, yeah.

15 Q Was he part of it?

16 A I don't think he was actually part of it. I
17 think it was just the two state police guys.

18 Q What happened next?

19 A They wouldn't allow me a phone call. I kept
20 asking for a phone call. Like I said, for one thing I
21 had never actually been put under arrest. Nobody had

1 Q You keep saying the word they. Do you mean
2 McGeeney, Greene and Heddinger?

3 A They were there.

4 Q Did Officer Greene hit you at all on the
5 scene?

6 A No. Nobody actually hit me.

7 Q When you were in the back of the car, you
8 were thrashing around and kicking?

9 A Yeah, because I was in so much pain.

10 Q Did you injure yourself at all doing that?

11 A No.

12 Q When you went to the jail cell and they put
13 you into the -- I guess was it a cell? Can you
14 describe the room you were in?

15 A It's like a concrete cell.

16 Q Four walls of concrete?

17 A Four wall and then a concrete bench.

18 Q But there were no bars or anything?

19 A No.

20 Q Did you throw yourself against the walls at
21 all?

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1191HXI

1 Q Now I understand that the incident with Mr.
2 Brittingham began at approximately 0238 hours on the
3 morning of December 19th, 1999. Is that correct?

4 A About that.

5 Q What time had you gone on duty before that?

6 A That would be on the midnight day shift,
7 11:00 to 7:00.

8 Q And what time did you report for work that
9 day?

10 A About 10:30.

11 Q Where would you have reported to work?

12 A The Centreville Police Department.

13 Q Where was it located at the time?

14 A North Commerce Street, 420.

15 Q Was anybody there when you reported for
16 duty?

17 A I believe the officer I was relieving. I
18 don't recall who it was.

19 Q I know it's a small department, but do you
20 have any roll call procedures or anything like that?

21 A We fill out a daily activity log.

1 and the Centreville Police Department.

2 Q What time did you receive the call?

3 A Probably in the neighborhood of a little
4 after 2:00, close to 2:30 maybe. I don't recall the
5 exact time.

6 Q So somewhere between 2:00 and 2:30?

7 A Somewhere in there.

8 Q Does anybody maintain a radio transmission
9 log?

10 A I believe back then they had a punch card
11 system.

12 Q Which entailed what?

13 A A complaint card punched into a time clock.

14 Q Can you explain that. I'm not following
15 you. I may be a little dense.

16 A Only from what I've seen out there. I mean
17 I'm not privy to their policies and procedures. The
18 complaint when they receive it, they punch it one
19 time; the second punch is dispatched out; the third
20 punch is arrival on the scene; and the fourth punch I
21 believe is cleared the call.

1 on Brown Street?

2 A It wasn't that far. Town is not that big.

3 Q I understand. Do you know how far?

4 A No.

5 Q When you turned onto Brown Street -- let me
6 step back. When you were on Little Kidwell, there's a
7 stop sign there -- correct -- at Brown Street?

8 A On Brown Street?

9 Q No. On Little Kidwell before you make a
10 left on Brown Street.

11 A Now there is, but there wasn't one then.

12 Q Did you stop at Brown Street before you made
13 your left-hand turn?

14 A I just negotiated the left turn.

15 Q Were you in any particular code when you
16 were traveling towards Brown Street?

17 A I definitely had the lights on. I don't
18 believe I had the siren on, but I'm not sure. I might
19 have had the siren on prior to getting to that
20 particular point.

21 Q What kind of car were you in?

1 Q When you say you drew your weapon and drew
2 down on him, how did you do it that -- with both hands
3 and point the gun at him?

4 A With a single hand and steadying it with my
5 left hand. I'm right-handed.

6 Q Okay. Did you shout out anything or say
7 anything to him?

8 A Yes, I did.

9 Q What did you say?

10 A I told him to drop the machete.

11 Q How far from him were you at that point in
12 time?

13 A Probably about 20 feet.

14 Q Where was Reds at that moment in time?

15 A To my right, on the east side of the street.

16 Q And how far away from you was he?

17 A He was on the other side of the sidewalk up
18 on the embankment still just whoofing.

19 Q What was he whoofing?

20 A That he was ready to do battle with this
21 guy. That was just Reds. He was just more talk than

1 action.

2 Q He was shouting at the other guy?

3 A Yes.

4 Q Was the other guy shouting back?

5 A Yes.

6 Q You said you'd had dealings with Reds before
7 this?

8 A Yes.

9 Q What had you had dealings with him about?

10 A B and E.

11 Q Breaking and entering?

12 A Correct.

13 Q How many times?

14 A Just the one that I recall.

15 Q Did you consider him a dangerous individual?

16 A No.

17 Q How about Hawkins -- you'd never dealt with
18 him before?

19 A That was a domestic related.

20 Q What was?

21 A The B and E.

1 A Oh, yeah.

2 Q What was he saying?

3 A He just wanted to do battle with this other
4 guy.

5 Q Specifically, what was he saying?

6 A I don't recall.

7 Q Had your backup arrived yet?

8 A No.

9 Q Had you gotten any *indication* at that time
10 when it would be there?

11 A No.

12 Q So you were still on your own?

13 A Correct.

14 Q When you went over to Reds, was he with
15 anybody else?

16 A I couldn't tell you. He was by himself at
17 the moment with a stick.

18 Q He still had the stick in his hand?

19 A Yes.

20 What did you do then?

21 A I took the stick, and I just had him sit

1 down on the curb. I just waited there for backup and
2 placed my hand on his shoulder so he wouldn't get up.

3 Q And as you had your hand on his shoulder,
4 where were you looking?

5 A I was watching the other guy, keeping an eye
6 on him and keeping an eye on Reds. They were still
7 yelling and shouting back and forth still. It was
8 more Reds than anything.

9 Q Was anybody else shouting in the area?

10 A No.

11 Q No one else causing a problem?

12 A No.

13 Q You weren't keeping an eye on anybody else?

14 A Nobody was an immediate threat.

15 Q You didn't consider that anybody might come
16 up to you?

17 A No. I mean I was aware of my surroundings,
18 but nobody approached me.

19 Q Which hand do you have on Reds?

20 A My left.

21 Q And you're looking over your left shoulder

1 Brittingham's presence?

2 A I heard the acceleration of a motor vehicle
3 rounding the corner of Little Kidwell onto Brown
4 coming my way.

5 Q When you heard the revving, where were you
6 looking before you heard the revving?

7 A I was watching my suspect across the street
8 and Reds. In my peripheral vision, I could see the
9 vehicle coming and I thought I heard the acceleration.

10 Q Where did you first see the vehicle?

11 A As it rounded the corner.

12 Q So he was already on Brown Street when you
13 first saw him?

14 A No. He was rounding the curve.

15 Q What part of the car could you see?

16 A Headlights.

17 Q So you see headlights. When did you first
18 see the car -- was it still on Little Kidwell or did
19 you see it when it was on Brown?

20 A As he was rounding the curve and turning
21 left onto Brown.

1 A That was my suspicion, plus the way he drove
2 the vehicle.

3 Q Well, in any of these statements, other than
4 he came by you fast and turned the corner fast, did
5 you indicate in any fashion that he had any problems
6 driving that vehicle?

7 A I did not indicate it, no.

8 Q And in your testimony in the district court
9 traffic court proceeding -- the district court
10 proceedings before Judge Parks, do you indicate
11 anywhere in there other than him coming around the
12 corner at a fast rate of speed that he had any
13 difficulty operating the motor vehicle?

14 A I don't believe so, but I don't recall.

15 Q So would it be fair to say that there was
16 nothing he did in the operation of the vehicle other
17 than coming around at what you said was an excessive
18 speed -- that he did anything in the operation of his
19 vehicle that would lead you to conclude he was under
20 the influence of drugs or alcohol?

21 MR. HAMILTON: Objection. You can

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1 gentleman that approached, the white gentleman?

2 A McGeeney.

3 Q What did he say?

4 A I don't remember.

5 Q Did he tell him at that point in time he was under
6 arrest?

7 A I don't remember.

8 Q Did McGeeney tell you anything about why he
9 thought that the white gentleman was intoxicated?

10 A I don't remember.

11 Q Okay. As the gentleman came over to your area,
12 what happened next?

13 A The next thing I remember, McGeeney placed his
14 hands on Brittingham. Him, McGeeney, Brittingham and Green
15 then went down to the ground.

16 Q Okay. Let me get this straight. So the white
17 gentleman, Brittingham, you called him?

18 A Uh-huh.

19 Q Did you know him from any time before?

20 A No.

21 Q Have you ever seen him before or since to your
22 knowledge?

DEPOSITION OF SERGEANT JOHN F. HEDDINGER, III
CONDUCTED ON TUESDAY, MARCH 23, 2004

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1 A No.

2 Q Never had any run-ins or anything with him?

3 A No.

4 Q Did McGeeney indicate that he had ever had any
5 run-ins with him?

6 A I don't remember.

7 Q How about Deputy Green?

8 A I don't remember.

9 Q All right. How far -- you said he put his hands
10 on him. How did he do that?

11 A I believe he grabbed his arm. I don't remember
12 which arm.

13 Q Did he say anything before he did that?

14 A I don't remember.

15 Q Did he announce in any way to your knowledge that
16 he was under arrest at that point in time?

17 A I don't remember.

18 Q So he grabbed his arm. Do you recall which arm he
19 grabbed?

20 A No.

21 Q Where was your attention focused?

22 A On the crowd and on the subject sitting in front

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he got out of the vehicleⁱ. There were no field sobriety tests or anything of that kind done. And I think Your Honor will be convinced that he didn't resist arrest and that he didn't hinder the Officer. He did get loud and scream when he was in pain. That may amount to disorderly conduct. If anything, that's all that he would be guilty of in this case in my opinion. And that's what we intend to prove.

THE COURT: Call a witness.

MR. DRUMMOND: Officer

10 JOSEPH MCGEENEY,
11 a witness produced on call of the State, having first been
12 duly sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DRUMMOND:

15 Q State your name and duty assignment, please.

16 A TFC Joseph McGeeney, Centreville Police Department,
17 currently assigned to Patrol Division and community policing.

18 Q Officer McGeeney, were you so employed and assigned
19 on September ... December 19, 1999?

20 A Yes, sir, I was.

21 Q And were you on duty on December 19, 1999 in the
22 early morning hours?

23 A Yes, sir.

24 Q Officer McGeeney, did you have occasion on that
25 early morning to be called upon to investigate an alleged

Q Is there a sidewalk ... is there a sidewalk there?

A That's right about here. And I had another suspect in custody over here. And I was here with another suspect.

Q Alright. Now, what were you invest-, what was the nature of your investigation?

A It came out as an altercation involving knives. It turned out to be one had a machete almost two feet in length and the other one had a four foot club or a stick.

Q Alright. Had they been applied? Did it appear to
10 you that those weapons had been applied to the combatants?
11 Were they injured?

12 A No.

13 Q Okay. Now, was ... were the three of you -- You
14 have indicated two people you were investigating and
15 yourself. Were you the only three people in that area that
16 evening?

17 A No, sir.

18 Q Could you ... how many other folks were out there?

19 A Right about here, there's a house right here.

20 Q Next to Chuck's Electric?

21 A Correct.

22 Q Or close to that?

23 A Correct. The driveway goes alongside of it.
24 There's crowd of people right up in this area here.

25 Q I am sorry. Did you say a crowd of people?

A Yes.

Q Alright.

A Five, six, seven, something like that.

Q Alright, sir. Fine. You can have a seat for the moment.

MR. WILLIAMS: Where's Kidwell?

MR. DRUMMOND: Little Kidwell.

MR. WILLIAMS: Where's that?

THE WITNESS: It ends into the school.

10 MR. WILLIAMS: Okay.

11 (Witness resumed the stand.)

12 BY MR. DRUMMOND:

13 Q Now, Officer McGeeney, you indicated that you had a
14 suspect over to the left and one over on the right side of
15 Brown Street. Is that right?

16 A Correct.

17 Q Were you ... had you asked them to be separated or
18 something? Why are they on either side of the street?

19 A Well, they were still ... there was still ... still
20 some agitation and some blurbs being thrown at each other and
21 some threats. And that's where I first approached the one on
22 the left at Hillside Drive is the one that had the machete.

23 Q Okay. Had you told him or her to calm down and
24 stay there, that sort of thing?

25 A Well, I...I immediately secured him in handcuffs.

with reasonable force.

In this case, there are three officers there and they decide to arrest you. It was pretty clear that no decision to arrest was made, even in the light most favorable to the State, - the Officer testified he did say you were under arrest - until the three officers were there. The only resisting in this case was not giving the officers your arms. But it seems like it didn't take them much time to get you in the car. They had to pull your arms out from under you to
10 get handcuffs on. And the act of not complying when they
11 wanted to put handcuffs on you, in a situation where it was
12 already fraught with difficulties -- One guy is there with a
13 machete, which they had gotten away, and somebody else.
14 There had been a fight. There's a group of people standing.
15 It's late at night. Dark (unclear) is what he said, but the
16 lighting was there, but I assume there was some kind of
17 street lights there that are there but not the best. I have
18 some problem on resisting arrest. I think what ... what really
19 is the fact that you did... didn't actually cooperate with
20 them and what happened in the police car, that whole loss of
21 temper when they were obviously engaged in something else and
22 you got in the middle of it and then the loud talk, etc.,
23 that all ... injecting that into that situation that night, I
24 think that's clearly disorderly conduct. I will find you
25 guilty of that.